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PAUL REICHE III and ROBERT FREDERICK FORD

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

STARDOCK SYSTEMS, INC.,

Plaintiff,

v.

PAUL REICHE III and ROBERT
FREDERICK FORD,

Defendants.

Case No. 4:17-CV-07025-SBA

**[PROPOSED] ORDER RE REICHE AND
FORD'S EVIDENTIARY OBJECTIONS
AND MOTION TO STRIKE THE
SECOND DECLARATION OF BRAD
WARDELL IN SUPPORT OF
STARDOCK'S MOTION OR, IN THE
ALTERNATIVE, REQUEST FOR LEAVE
TO FILE SUR-REPLY**

Judge: Hon. Sandra B. Armstrong

Complaint Filed: Dec. 8, 2017
Trial Date: June 24, 2019

PAUL REICHE III and ROBERT
FREDERICK FORD,

Counter-Claimants,

v.

STARDOCK SYSTEMS, INC.,

Counter-Defendant.

| | <u>Proffered Evidence</u> | <u>Objection</u> | <u>Ruling</u> |
|----|--|---|--|
| 1. | <p>Wardell Second Decl., ¶ 11, in its entirety:</p> <p>“Reiche and Ford have known about <i>Origins</i> and Stardock’s intention to create a successor to the Classic Star Control Games under Stardock’s STAR CONTROL mark since at least as early as 2013.”</p> | <p><u>FRE 602</u> <u>Speculation</u></p> <p>Wardell lacks personal knowledge and is speculating as to what Reiche and Ford knew or did not know at any given time.</p> | <p><input type="checkbox"/> Sustained <input type="checkbox"/> Overruled</p> |
| 2. | <p>Wardell Second Decl., ¶ 14, Pg. 5, Line 26 thru Page 6, Line 2:</p> <p>“Stardock believes that Reiche never owned the rights to <i>Star Control I</i> and <i>Star Control II</i> that he purported to license in the 1988 License Agreement, and thus, there was nothing owned by Reiche to be assigned. So, his consent was not needed even if it was required (which Stardock disputes).</p> | <p><u>FRE 401/402</u> <u>FRE 602</u> <u>FRE 701</u></p> <p>Wardell lacks the personal knowledge necessary to make this statement, as he does not have the expertise necessary to provide testimony as to what legal rights Reiche and Ford had in Star Control I and II or what legal rights Reiche and Ford licensed through the 1988 Agreement. He has no personal knowledge or recollection of these events, as he was not present for their occurrence. Thus, his opinion therefore constitutes improper lay witness testimony that encompasses technical and/or specialized exclusively within the scope of Rule 702.</p> <p>Moreover, Wardell’s and Stardock’s “belief” as to what rights Reiche and Ford own in their Star Control I and II games is irrelevant as it has no tendency to make any fact more or less probable nor is it of any consequence in determining the action.</p> | <p><input type="checkbox"/> Sustained <input type="checkbox"/> Overruled</p> |